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**MassRecycle**

is a 501(c)3 nonprofit organization dedicated to promoting and realizing the vital environmental, social and economic benefits created by reducing, reusing, and recycling waste materials, and by increasing the utilization of recycled products.

June 27, 2013

To the Joint Committee on Environment, Natural Resources and Agriculture:

Thank you for the opportunity to provide input on important reduction and recycling bills being considered by the House and Senate.

MassRecycle, the 501c3 statewide coalition whose membership includes all 351 municipalities, as well as many recycling business, institutions, organizations and individuals dedicated to increasing recycling, diversion and waste reduction in Massachusetts applauds the Joint Committee for focusing on solid waste reduction and diversion. As the uniquely positioned organization that draws expertise from generators, haulers and processors, ***MassRecycle urges the Joint Committee to move favorably on bills only if the bills are pragmatic and do not undermine the existing waste and recycling infrastructure that is so vital to both our environment and our state economy.***

While we will briefly comment on the other solid waste bills being considered by the Joint Committee, MassRecycle will focus primarily on the three bills which we view as potential statewide frameworks for waste reduction and recycling – H.758, H.765, and S.389. We believe that a strong statewide framework that involves both waste reduction and universal recycling is crucial to reaching our shared goals of reducing waste and increasing diversion and recycling.

We feel strongly that each of the three aforementioned bills is currently lacking or flawed in one way or another. MassRecycle cannot recommend to the Joint Committee favorably moving any of the three bills as currently drafted. But we would enthusiastically support favorable action on the bills if the best parts of each bill were combined in an omnibus bill, or if specific amendments were made to each bill.

Prior to the announcement of the Joint Committee hearing, MassRecycle was actively working to bring together the sponsors with our membership at our Legislative Forum, scheduled for July 9th, 11AM at Emerson College. While we were hoping that the Forum would allow our member experts to collaborate with legislators to produce the specifics of the best bill possible, MassRecycle generally believes that a realistic statewide framework for waste reduction and universal recycling would include the following key points and features:

**1.) Per capita waste reduction target goals or performance standards for municipalities to be set by regulators –**

*Explanation* - Setting statutory target goals for municipalities gives some teeth to the aggressive goals set forth in the Commonwealth's Solid Waste Master Plan 2010-2020. MassDEP is the best equipped entity to set the standards while considering the current fiscal realities of our municipalities and diversion infrastructure needs in the Commonwealth.

**2.) Universal recycling with generator responsibility for procuring recycling services –**

50 Franklin Street  
Boston, MA 02110  
(617) 338-0244  
[www.massrecycle.org](http://www.massrecycle.org)

*Explanation* - Having recycling become truly ubiquitous is key to increasing waste reduction and diversion; the typical Massachusetts resident will do the right thing given the opportunity.

However, requiring all haulers to offer both recycling and waste removal services hampers free-market competition and innovation. Many small, good haulers exist that specialize in just recycling or just waste; waste stream specialization, i.e. waste, recycling, organics construction & demolition, etc., is common. With the institutional organics ban coming in 2014, it is likely that even more small haulers that only haul organics for diversion will come into play.

The onus to procure appropriate waste and recycling services should be on the generator. Each generator has specific unique needs. Legislation that would mandate only fully integrated hauling companies is not only contrary to the current system, it would prohibit the generator from finding the best hauler or combination of haulers to address their specific needs.

**3.) State-level oversight of haulers via a registration system, which also levels the playing field for haulers and creates steady funding for state recycling efforts –**

*Explanation* - While MassDEP has oversight of municipalities and processors via permit processes and existing reporting requirements, haulers are subject to little oversight at the state-level. Only a fifth of the municipalities in the state require haulers to register at the local DPW or Board of Health, and less than two dozen of those municipalities actively enforce requirements set out when registering.

It seems nonsensical to give MassDEP the oversight over the front and back of the system but not the intermediary. MassDEP should be granted oversight over haulers at the state-level via a registration program with clearly defined fees, such as a flat fee plus a per registered truck fee. At the same time, municipalities should be restricted from requiring local registration.

This levels the playing field for all haulers, as they will be subject to the same requirements. If the regulations are drafted properly, bad faith haulers that undercut prices by shipping everything, regardless of recyclability, out of state will effectively be crowded out. It also gives haulers the added benefit of fiscal-predictability, since the drastically varying, existing municipal-level registration fees will be eliminated. And the registration fees can be a significant source of dedicated revenue for the Commonwealth to divert back to municipalities to use for recycling enforcement and generator education.

**4.) Dedicated funding for generator education and increased enforcement at the generator-level instead of the hauler-level –**

*Explanation* - Typically, when dealing with environmental contaminants, it is most effective to locate and regulate the point source; for trash, recyclables and organics, that would be the generator. You and I – we are all responsible.

MassRecycle believes increasing the waste and recycling education and awareness of our citizens is as important, if not more so, than enforcing waste bans. And while we would prioritize education, enforcement is still necessary, particularly at the generator-level.

While clear penalties and fines for haulers that act in bad faith and that violate waste ban regulations are necessary, clamping down on the middle man, the hauler, does not solve the root problem. Any municipal recycling coordinator, hauler or processor will attest to the fact that every load has contaminants, because we are dealing with human nature. Zero tolerance waste bans that strictly penalize the haulers will quickly result in crippling the existing infrastructure and stifling many jobs.

The states that do have some level of zero tolerance expend significant funds to have ubiquitous recycling education and enforcement at all levels, including generators. These states levy fines on individual citizens to ensure compliance.

While we are against the zero tolerance approach for our state, we are very supportive increasing generator education and enforcement at the generator-level. MassRecycle suggests the creation of an expendable trust funded by the aforementioned registration fees and distributed by MassDEP for generator education and municipal-based enforcement officers.

**5.) Reporting requirements for all stakeholders - municipal, hauler, processor – that do not duplicate existing requirements**

*Explanation* - Reporting at all level ensures that registration requirements, as well as adherence to waste ban regulations, are being fulfilled and helps MassDEP identify areas and actors that need attention.

While we believe a reasonable, pragmatic framework should include all of the above, we realize that developing and passing an omnibus bill can be difficult. So MassRecycle would also support favorable action on each of the three bills in consideration with the following suggested amendments:

**S.389 needs a funding mechanism to support education on and enforcement of the mandatory performance standards**

MassRecycle supports waste reduction as set forth in S.389. However, S.389 does not provide for a dedicated funding source to support MassDEP and the municipalities, nor does it grant MassDEP any mechanism, such as a penalty system or incentive system, with which to ensure success.

MassRecycle strongly urges the Joint Committee to pass favorably S.389 with an amendment making the Act contingent on the identification and creation of dedicated funding for MassDEP to be held in an expendable trust with priority given to generator-level programs.

**H.758 should not enable zero tolerance waste bans and should instead focus on hauler registration and generator education**

We also support mandatory universal recycling as set forth in H.758. However, for H.758 to function practically in Massachusetts, several sections need to be overhauled.

Section 4, which sets forth zero tolerance, should be entirely stricken. As aforementioned, zero tolerance is unrealistic in the Commonwealth and economically damaging.

Section 5 wrongly enforces solely against haulers. While some oversight and fines are necessary to ensure that haulers act in accordance to regulations, the generator should also be held accountable. This section should be stricken or at minimum amended to remove the severe penalty of being excluded from a given site for a year.

Section 6 should allow for and promote expenditures on generator education.

Section 7 and 8 should be consolidated and strengthened to require hauler registration at the state-level, while prohibiting registration requirements at the municipal level. MassDEP gains oversight over haulers while haulers get the benefits of a level playing field and fiscal-predictability.

Section 14 should be adjusted to reflect the proposed edits to Section 6. Instead of providing loans to haulers, which already happens through the existing Recycling Loan Fund, the

established fund should be primarily dedicated to increasing generator education and programs that help enforce on a generator-level.

Section 15 should be adjusted to refocus the brunt of educational efforts on the generator. Haulers deal with waste ban compliance on a daily basis and do not need aggressive training.

MassRecycle strongly urges the Joint Committee to pass favorably S.758 if section 4 and 5 are stricken, and the aforementioned amendments are made to Sections 6, 7, 8, 14 and 15.

**H.765 can be very effective if the generator instead has the responsibility to procure the recycling services while the hauler is subject to state-level registration requirements**

MassRecycle strongly supports mandatory universal recycling as set forth in H.765. We believe with one major redraft of Section 3 and some minor amendments to Section 5 and 7, H.765 could be very effective in increasing recycling and diversion in the Commonwealth.

Having consulted with the constituent that submitted H.765, we believe Section 3 as drafted does not fully reflect the original intent. Section 3 appears to mandate that all waste hauling and recycling services be sold at a set rate across the state; by nature, this would be anti-competitive and deleterious to the free market system.

If instead, Section 3 is interpreted to mean that all service providers that haul waste must also offer to haul recycling, then the section seems stronger. But even if interpreted this later way, Section 3 effectively crowds out small businesses.

Many haulers do not have the financial wherewithal to offer both recycling and waste hauling. Some specialize at offering one or the other at a high performance level. And with the impending 2014 institutional organics waste ban, it is likely that more small haulers will come into existence solely focused on hauling organics material for diversion.

So with this in mind, Section 3 should be amended to instead require the generator to hire registered service providers to haul their recycling if they hire a service provider to haul waste; it is up to the generator whether they hire a single hauler to do both, or more than one hauler. This keeps the system a competitive free market accessible to small businesses. We envision this requirement, coupled with state-level registration, to be akin to the requirement to hire licensed and bonded contractors for major construction.

Section 5 should be amended to strengthen the registration system, as previously discussed in H.758. Registration should occur on a state-level, not municipal. This will give MassDEP much needed oversight over haulers while level the playing field and making registration fees predictable for haulers.

Section 7 should be amended to allow the fund be expended for generator education instead of hauler education as discussed in H.758.

MassRecycle strongly urges the Joint Committee to move favorably on H.765 if Section 3 is overhauled as discussed and the minor amendments are made to Sections 5 and 7.

In addition to the three framework bills, MassRecycle believes that the bills on multi-family, commercial, state agency and public space recycling – H.734, H.746, S.353, S.367 and S.398 - have a lot of merit. We would even suggest that these bills be added as subsections to the omnibus bill or to either of the universal recycling bills. However, we do have a few minor suggested amendments:

**H.734 and S.353 need funding to support municipalities with the difficult task of providing public space recycling**

In H.734 and S.353, we applaud the idea of the state taking ownership and requiring its own agencies and departments to offer recycling. We also support requiring recycling in public areas and high traffic areas, but implementing such recycling programs can be costly, especially for our municipal members.

Our municipal members would have to find funds to acquire bins as well as to staff regular hauling for these bins. Public space bins, in particular, have been shown to be subject to high rates of contamination, resulting in otherwise recyclable materials still ending up in the solid waste stream. Municipalities that have successfully implemented public space recycling programs have relied on increased education in the public spaces and more unique bins to combat contamination, both of which require additional funding.

We suggest that the Joint Committee move favorable on H.734 and S.353 with an amendment that dedicates funding for public space recycling education and to support municipalities implementing such programs.

#### **H.746 needs funding to enable MassDEP to provide technical assistance and grants for multi-family recycling**

H.746 also lacks necessary funding. H.746 puts the onus on MassDEP to provide technical assistance to multi-family establishments seeking to implement recycling programs without granting MassDEP the wherewithal via funding.

Further, the bill designates SMRP grant funding to help establish these programs. SMRP funding currently is key to kick-starting municipal pilot projects and to pushing the greater strategic programs, like the implementation of the organics ban. The highly-effective SMRP should not be handicapped by having part of the existing limited funding cut away for only multi-family projects.

MassRecycle suggests that the Joint Committee move favorably on H.746 with an amendment that dedicates new funding for technical assistance and grants to support multi-family recycling programs instead of drawing from SMRP funds.

We also suggest that the Joint Committee move favorably on S.367 and S.398 as drafted.

Finally, MassRecycle would like to voice support for H.719 with some minor suggestions.

#### **Residuals and commodities should be managed in the highest and best way possible, even those shipped out of state**

MassRecycle believes that post-diversion materials, i.e. residuals, should be managed in the highest and best way possible. Even if we hit our aggressive 2020 goals, we will still have a significant percentage of our waste stream being managed as residuals. And even at “zero waste,” we would still have at least 10% residuals.

MassRecycle would also urge the Joint Committee to consider addressing in-state versus out-of-state management while addressing residuals management. As it stands, we ship a significant portion of our trash out of state, where it ends up in landfills. By 2020, we expect that portion to be even larger, at least 2 million tons, due to the shortfall of in-state landfill capacity and moratorium on municipal waste combustors. Can we, in all due conscience, truly consider ourselves at zero waste and successful if we ship our residuals out of state and ignore the end result?

In addition, we would also urge the Joint Committee to consider acknowledging in the resolution

that in-state management and use of commodities, i.e. those materials captured for recycling and reuse, is more desirable, when feasible, than selling those commodities out-of-state. Retaining commodities in-state reduces transportation impact on GHG emissions while reducing in-state need for raw materials. Incentivizing in-state use of commodities will hopefully promote economic growth or even result in new businesses within the borders of the Commonwealth.

We suggest that the Joint Committee move favorably on H.719 with an amendment that requires residuals shipped out-of-state be subject to the waste management hierarchy and that commodities be retained in-state whenever feasible.

MassRecycle believes that the three waste reduction and universal recycling bills can provide dynamic and viable frameworks at the state-level in concert in an omnibus bill, or individually with the proper amendments discussed. And we also believe many of the other bills under consideration have great merit.

We believe collaboration between our members and key legislators can help ensure that such a framework is as strong and pragmatic as possible. Even if the Joint Committee moves favorably on one or all of the three framework bills, MassRecycle invites the Joint Committee and the legislative sponsors to join us at our Legislative Forum on July 9th to prepare for the second and third readings of the bills.

Thank you for your consideration.

Sincerely,

Edward Hsieh  
Executive Director, MassRecycle